

## Message Text

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ACTION EB-07

INFO OCT-01 ARA-06 ISO-00 FEA-01 AGRE-00 CEA-01  
CIAE-00 COME-00 DODE-00 FRB-03 H-01 INR-07 INT-05  
L-03 LAB-04 NSAE-00 NSC-05 PA-01 EPG-02 AID-05  
SS-15 STR-04 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02  
OMB-01 /082 W  
-----052145Z 023630 /75

P 051845Z MAY 77  
FM AMEMBASSY BRASILIA  
TO SECSTATE WASHDC PRIORITY 1462  
INFO AMCONSUL RIO DE JANEIRO PRIORITY  
AMCONSUL SAO PAULO

C O N F I D E N T I A L SECTION 1 OF 2 BRASILIA 3609

E.O. 11652: GDS  
TAGS: ETRD  
SUBJECT: GOB REACTION TO EMBASSY INQUIRIES RE DATA ON SHOE INDUSTRY

REF: (A) STATE 085744 (B) BRASILIA 3196

1. SUMMARY. FOLLOWING CONGEN SAO PAULO'S UNSUCCESSFUL EFFORTS TO COLLECT DATA ON BRAZILIAN SHOE INDUSTRY (REF B), A FOREIGN MINISTRY OFFICIAL REQUESTED THAT THE EMBASSY SUBMIT ALL FUTURE REQUESTS FOR DATA ON THE INDUSTRY VIA THE MINISTRY. THE OFFICIAL ALSO SUGGESTED THAT SIMILAR PROCEDURE MIGHT BE USED WHENEVER A BRAZILIAN EXPORT TO THE US BECOMES SENSITIVE, TO AVOID AROUSING INDUSTRY CONCERNS. E/C COUNSELOR INFORMED FOREIGN MINISTRY OFFICIAL THAT THE EMBASSY COULD NOT ACCEPT ANY SUCH LIMITATION ON ITS OPEN AND LAWFUL INFORMATION GATHERING ACTIVITIES. END SUMMARY.

2. SUBSEQUENT TO FINATT/FINANCE MINISTRY CONVERSATION REPORTED REF B E/C COUNSELOR WAS CALLED TO FONMIN APRIL 25 BY COUNSELOR ALVARO ALENCAR, CHIEF/TRADE POLICY  
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DIVISION. ALENCAR CONFIRMED THAT THE PRESIDENT OF THE SAO PAULO SHOE MANUFACTURERS' ASSOCIATION, SEBASTIAO BURBULHAN, HAD CALLED THE FOREIGN MINISTER AND THE FINANCE MINISTRY EXPRESSING "GREAT CONCERN" OVER CONGEN SAO PAULO'S EFFORT TO OBTAIN DATA ON THE INDUSTRY. (COMMENT - CONGEN SAO PAULO HAD REQUESTED SIMILAR PRODUCTION AND EXPORT INFORMATION FROM BURBULHAN IN 1975 WITH

LIMITED SUCCESS. IN MAKING THIS LATEST REQUEST, THE CONGEN NATED THAT SIMILAR REQUESTS HAS BEEN ROUTINELY MADE IN PAST YEARS AND WERE PART OF THE MISSION'S REGULAR REPORTING PROGRAM. BURBULHAN TOLD CONGEN OFFICER HE WAS UNABLE TO REAPOND TO THE REQUEST WHICH WAS SUBMITTED IN WRITING AT HIS INSISTENCE.)

3. ALENCAR SAID MATTER HAD BEEN DISCUSSED BETWEEN FIANANCE MINISTER SIMONSEN AND FONMIN SILVEIRA. EMPHASIZING THAT HE WAS SPEAKING UNDER DIRECT INSTRUCTIONS FROM SILVEIRA, ALENCAR STATED THAT EMBASSY'S EFFORTS TO OBTAIN ABOVE DATA DIRECTLY FROM SHOE INDUSTRIES HAD GENERATED CONSIDERABLE UNEASINESS AND CONCERN AMONG INDUSTRY REPS WHO FEARED INFORMATION MIGHT BE USED TO FORMULATE NEW USG RESTRICTIONS AGAINST BRAZILIAN SHOE EXPORTS. ALLEGING AN AGREEMENT HAD BEEN REACHED IN 1976 THAT US OFFICIALS WOULD NOT APPROACH SHOE INDUSTRY SORRES WITHOUT GOB PERMIS- SION, ALENCAR REQUESTED THAT EMBASSY CHANNEL INQUIRES FOR INFORMATION ON THE BRAZILIAN INDUSTRY THOUGH THE FOREIGN MINISTRY, WHICH WOULD THEN OBTAIN THE REQUIRED DATA. ACCORDING TO ALENCAR, A REQUEST THROUGH ITAMARATY WOULD NOT UPSET SHOE INDUSTRY REPS AS WOULD A DIRECT APPROACH BY USG OFFICIALS. ALENCAR STRESSED THAT THIS REQUEST APPLIED ONLY TO US EMBASSY INQUIRIES RE SHOES, BECAUSE OF THE SEN- SITIVITY OF THE INDUSTRY TO POSSIBLE US IMPORT RESTRICTIONS, LATER ON, HOWEVER, BEFORE CLOSING THE MEETING, ELEN CAR SUGGESTED THAT SIMILAR PRO- CONFIDENTIAL

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CEDURE MIGHT BE FOLLOWED WHEREVER A BRAZILIAN EXPORT BECOMES SENSITIVE, TO AVOID AROUSING INDUSTRY CONCERNS.

4. E/C COUNSELOR SAID THAT WHILE HE WOULD GIVE FURTHER CONSIDERATION TO THE MINISTRY'S REQUEST, HIS PRELIMINARY VIEW WAS THAT THE EMBASSY COULD NOT MAKE A COMMITMENT TO THE GOB TO REFRAIN FROM DIRECT CONTACT WITH THE INDUSTRY.

5. IN SUPPORT OF POSITION, E/C COUNSELOR MADE THE FOLLOWING POINTS:

A. THERE WAS NO AGREEMENT BETWEEN THE EMBASSY AND THE GOB TO RESTRICT OR AVOID CONTACTS WITH THE SHOE INDUSTRY. THE CASE OF THEUS CUSTOMS INSPECTION IN 1976 WAS NOT, IN THE EMBASSY'S VIEW, APPLICABLE; IT INVOLVED AN INVESTIGATION OF POSSILBE VIOLATION OF US AND BRAZILIAN CUSTOMS REGULATION, PRIOR TO POS- SIBLE PROSECUTION IN US CUSTOMS COURT. IT WAS DIRECTED AT SPECIFIC TRANSACTIONS AND EXPORTERS, NOT

THE INDUSTRY AS A WHOLE. THE PRESENT INQUIRY, PART OF THE EMBASSY'S NORMAL REPORTING PROGRAM ON THE BRAZILIAN ECONOMY, SOUGHT INFORMATION ON AN ENTIRELY VOLUNTARY BASIS.

B. DATA GATHERING FROM PRIVATE BRAZILIAN SOURCES WAS NORMAL MISSION ACTIVITY, IN CONFORMANCE WITH THE VIENNA CONVENTION.

C. THE FOREIGN MINISTRY, IN ESSENCE, WAS REQUESTING THE EMBASSY TO ACCEPT A LIMITATION ON ITS FREEDOM TO COLLECT INFORMATION. THE REQUEST WAS DIFFICULT AND TROUBLESOME. TO ACCEPT A SELF-LIMITATION OF THIS KIND, EVEN ON GROUNDS OF SENSITIVITY OF THE SECTOR, WOULD ESTABLISH A PRECEDENT FOR SIMILAR INQUIRIES CONCERNING OTHER SECTORS OF THE ECONOMY.

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OMB-01 /082 W

-----052144Z 023421 /75

P 051845Z MAY 77

FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC PRIORITY 1463

INFO AMCONSUL RIO DE JANEIRO PRIORITY

AMCONSUL SAO PAULO PRIORITY

C O N F I D E N T I A L SECTION 2 OF 2 BRASILIA 3609

6. WHILE NOT QUESTIONING THE LEGALITY OF CONGEN SAO PAULO'S ACTION, ALENCAR CONTENDED THAT THE ISSUE WAS AN ISOLATED AND SPECIFIC ONE AND THE ONLY REASON IT WAS BEING RAISED WAS THE GREAT SENSITIVITY OF THE BRAZILIAN SHOE INDUSTRY. ALENCAR DENIED THAT HE WAS ASKING THE EMBASSY TO ASSUME ANY COMMITMENT CONCERNING ITS CONTACTS WITH THE SHOE INDUSTRY OR ANY OTHER SECTOR. THE MINISTRY WAS SIMPLY REQUESTING THAT THE EMBASSY VOLUNTARILY REFRAIN FROM SUCH CONTACTS AT THIS TIME.

7. ON APRIL 26, E/C COUSSELOR RETURNED TO ALENCAR'S OFFICE AND PURSUANT TO GUIDANCE FROM THE AMBASSADOR,

MADE THE FOLLOWING POINTS:

A. HE WISHED TO CONFIRM THAT BOTH SIDES AGREED THAT CONGEN SAO APULO HAD BEEN EXERCISING A NORMAL AND LAWFUL FUNCTION, AND THAT THERE WAS NO IMPLICATION IF IMPROPRIETY IN THE FOREIGN MINISTRY'S REQUEST. (ALENCAR PERSONALLY AGREED THAT THERE WAS NO IMPLICATION OF IMPROPRIETY BUT SAID THAT THIS WAS OUT OF HIS FIELD OF COMPETENCE AND THAT HE COULD NOT COMMIT THE FONMIN'S CONSULAR AUTHORITIES.)  
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B. THE EMBASSY WAS SURPRISED BY THE REACTION TO A NORMAL, STRICTLY VOLUNTARY DATA COLLECTING EFFORT. AS WE UNDERSTOOD THE SITUATION, THE EMBASSY WOULD NOT BE ABLE TO OBTAIN THIS INFORMATION FROM THE INDUSTRY AND, FACED WITH AN ACCOMPLISHED REALITY, WOULD NOT PRESS THE ASSOCIATIONS FOR A RESPONSE. WE WOULD REPORT OUR INABILITY TO OBTAIN THIS INFORMATION TO WASHINGTON.  
C. WHILE THE EMBASSY REGRETTED THE OUTCOME OF THIS ROUTINE INQUIRY, WE WERE PARTICULARLY CONCERNED ABOUT THE SUGGESTION THAT OTHER SENSITIVE COMMODITIES MIGHT POSSIBLY BE HANDLED IN THE SAME WAY. SUCH A REQUEST OR SUGGESTION WOULD GIVE US A GREAT DEAL OF DIFFICULTY BECAUSE IT IMPLIED THE SUBSTITUTION OF BUREAUCRATIC, ADMINISTRATIVE CHANNELS FOR THE FREE, OPEN, AND LAWFUL COLLECTION OF DATA, AND WOULD NOT BE IN KEEPING WITH NORMAL INTERNATIONAL PRACTICE AND LONG-STANDING PROCEDURE SANCTIFIED IN INTERNATIONAL CONVENTION. WE FEEL THE SUGGESTION WOULD CAUSE SURPRISE AND CONCERN IN WASHINGTON.

8. IN THE ENSUING DISCUSSION ALENCAR REITERATED THE POSITION THAT;

A. THE ISSUE FOR THE GOB WAS ONE OF THE SENSITIVITIES OF THE INDUSTRIES BEING APPROACHED BY THE US MISSION, AND NOT A QUESTION OF THE EMBASSY'S RIGHTS; AND  
B. THE GOB THUS WAS TRYING TO FIND A WAY OF DEALING WITH A PRACTICAL, INTERNAL POLITICAL PROBLEM POSED BY THE EMBASSY'S ACTIVITIES IN SECTORS THREATENED BY US IMPORT ACTIONS.

E/C COUNSELOR REPLIED EMBASSY UNDERSTOOD THIS; THE EMBASSY WAS SEEKING TO CONDUCT ITS LAWFUL OPERATIONS WITH DUE REGARD TO LOCAL SENSITIVITIES, CONSISTENT WITH US INTERESTS; AND THE SENSITIVITIES OF THE SHOE INDUSTRY HAD BEEN AND WOULD BE TAKEN IN TO ACCOUNT IN THE CONDUCT OF THE MISSION'S LAWFUL OPERATIONS IN THIS SECTOR.

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9. ALENCAR APPEARED TO BE SATISFIED WITH THIS AND ENDED THE MEETING BY STATING HE WOULD PASS E/C COUNSELOR'S REPLY TO FONMIN SILVEIRA. AMBASSADOR CABRAL DE MELLO, ELENCAR'S CHIEF, IN A MEETING WITH E/C COUNSELOR THE FOLLOWING DAY, APRIL 27, WAS CORDIAL AND DID NOT REFER TO THE ISSUE. THE TONE OF BOTH MEETINGS WITH ALENCAR WAS FRIENDLY THROUGHOUT. EMBASSY, THEREFORE, CONSIDERS THE MATTER CLOSED.

10. COMMENT. THE BASIC DIFFERENCE BETWEEN THE TWO SIDES WAS THAT ALENCAR KEPT REFERRING TO THIS ISSUE AS A SPECIFIC, ISOLATED INSTANCE WHICH COULD BE RESOLVED ON AN AD HOC, "JEITO" BASIS, WHILE E/C COUNSELOR DEFENDED THE POSITION THAT SILVEIRA'S REQUEST, IN THE EMBASSY'S VIEW, INVOLVED A FUNDAMENTAL PRINCIPLE OF THE MISSION'S RIGHTS AND DUTIES AND THAT THE ADMISSION OF ALIMITATION ON THIS ISSUE COULD OPEN THE DOOR TO FURTHER RESTRICTIONS ON THE MISSION'S ACTIVITIES, AS INTIMATED BY ALENCAR'S REFERENCE TO OTHER SENSITIVE COMMODITIES.

11. THE DEPARTMENT'S COMMENTS ON THE SUBSTANTIVE AND LEGAL IMPLICATION OF THE FOREIGN MINISTRY'S ATTITUDE ARE REQUESTED.

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